

REMARKS

This Amendment is submitted in response to the Office Action dated October 10, 2002. In the Office Action, the Patent Office objected to Claims 1-20 based on informalities. The Patent Office rejected Claims 1, 4, 6-9 and 11-13 under 35 U.S.C. §101 because the claimed invention is directed to non-statutory subject matter; rejected Claims 1, 2, 4-7, 11, 13, 14, 19 and 20 under 35 U.S.C. §102(b) as being anticipated by *Ohrn* (U.S. Patent No. 6,356,874); and rejected Claims 3 and 10 under 35 U.S.C. §103(a) as being unpatentable over *Ohrn* in view of *Bruno et al.* (U.S. Patent No. 6,289,088). The Patent Office further rejected Claims 8, 9, 12, 15 and 16 under 35 U.S.C. §103(a) as being unpatentable over *Ohrn* in view of *Stanis et al.* (U.S. Patent No. 4,135,241); and rejected Claims 10 and 18 under 35 U.S.C. §103(a) as being unpatentable over *Ohrn* in view of *Bruno et al.* and further in view of *Stanis et al.*

By the present Amendment, Applicant amended Claims 1 and 14. Applicant submits that the amendments to the claims overcome the rejections by the Patent Office for the reasons that follow.

The Patent Office objected to Claims 1-20 because of informalities. The Patent Office stated that the claims are objected to because the lines are crowded too closely together, making reading and entry of amendments difficult. Applicant submits herewith a substitute copy of the claims as originally filed with lines double spaced on good quality paper as required

by 37 CFR §1.52(b) .

The Patent Office rejected Claims 1, 2, 6-9 and 11-13 under 35 U.S.C. §101 because the claimed invention is directed to non-statutory subject matter. The Patent Office states that though the preamble states a computer network, the method of the claims does not positively recite use of the network or any technology in performing the steps. For example, a card catalog may be described as a database, the database may be hand searched, cards have information inputted onto them and entered into the card catalog.

Applicant amended Claim 1 to direct the invention to statutory subject matter. More specifically, Applicant removed the computer network from the preamble. Further, Applicant added language to the preamble to positively define Applicant's claimed invention. More specifically, the preamble now defines "providing bed availability information to a user wherein the user identifies an available bed for a patient and further wherein the bed availability information includes information on beds at a plurality of healthcare facilities wherein the plurality of healthcare facilities receives the patient based on the bed availability at one of the plurality of healthcare facilities." Further, the computer network is now defined as a step of the method of the Claim 1. Claim 1 now positively recites use of the network in providing bed availability information. Accordingly, Applicant respectfully submits that amended Claim 1 overcomes the

rejection of Claims 1, 2, 6-9 and 11-13 under 35 U.S.C. §101. Notice to that effect is requested.

As to the rejection of Claims 1, 2, 4-7, 11, 13, 14, 19 and 20 under 35 U.S.C. §102(b) as being anticipated by *Ohrn* (U.S. Patent No. 6,356,874), Applicant amended Claims 1 and 14. Applicant submits that the rejection has been overcome in view of the amended claims and for the reasons that follow.

Amended Claim 1 requires a method for providing bed availability information to a user wherein the user identifies an available bed for a patient and further wherein the bed availability information includes information on beds at a plurality of healthcare facilities wherein the plurality of healthcare facilities receives the patient based on the bed availability at one of the plurality of healthcare facilities. The method has a computer network connected to a database, and bed availability information is input for a plurality of healthcare facilities wherein each of the plurality of healthcare facilities have beds and further wherein the bed availability information is input into the database and is accessible by the computer network. Claim 1 also requires inputting a medical condition of a user to determine bed availability for the user with the medical condition.

Amended Claim 14 requires a system for storing and accessing bed availability information to a user wherein the bed availability includes information for a plurality of healthcare

facilities wherein each of the plurality of healthcare facilities has a plurality of beds and receives a patient if a bed is available. The system has a computer network and a database associated with the computer network. The system has a means for inputting bed availability information of a plurality of healthcare facilities into the database, and a means for accessing the bed availability information and retrieving the bed availability information from the database via the computer network. Further, the system has a means for inputting information about the patient into a form via the computer network wherein the information about the patient is stored in the database.

On the contrary, *Ohrn* merely teaches a method of booking hotel rooms via a user terminal connected to a central data processing device. A service request is specified, and information of a service is retrieved from a database in the neutral data processing device. When a given service offer is selected, a connection is automatically established between the user terminal and a service location terminal via the central data processing device. Additionally, *Ohrn* teaches a method of ordering medical services in a national or international market for medical services. A terminal may be used by a doctor in private practice for ordering consultations with specialists, admissions to hospital and operations.

However, nowhere does *Ohrn* teach or suggest a method of

providing bed availability information to a user wherein the user identifies an available bed for a patient and further wherein the bed availability information includes information on beds at a plurality of healthcare facilities. Further, *Ohrn* does not even remotely teach or suggest a method of providing bed availability comprising the step of inputting the medical condition of a user to find bed availability for a user with the medical condition as required by Claim 1. Still further, *Ohrn* does not remotely teach or suggest a system for storing and accessing bed availability information for a plurality of healthcare facilities wherein the system has a means for inputting information about the patient into a form via the computer network wherein the information about the patient is stored in the database as required by Claim 14.

Under 35 U.S.C. §102, anticipation requires that a single reference discloses each and every element of Applicant's claimed invention. *Akzo N.V. v. U.S. International Trade Commission*, 808 F.2d 1471, 1479, 1 USPQ 2d. 1241, 1245 (Fed. Cir. 1986). Moreover, anticipation is not shown even if the differences between the claims and the reference are "insubstantial" and one skilled in the art could supply the missing elements. *Structure Rubber Products Co. v. Park Rubber Co.*, 749 F.2d. 707, 716, 223 USPQ 1264, 1270 (Fed. Cir. 1984).

Since *Ohrn* fails to disclose the steps and elements defined

in amended Claims 1 and 14, respectively, the rejection under 35 U.S.C. §102(b) has been overcome and should be withdrawn. Notice to that effect is requested.

With respect to the rejection of Claims 3 and 10 under 35 U.S.C. §103(a) as being unpatentable over *Ohrn* in view of *Bruno et al.* (U.S. Patent No. 6,289,088); the rejection of Claims 8, 9, 12, 15 and 16 under 35 U.S.C. §103(a) as being unpatentable over *Ohrn* in view of *Stanis et al.*; and the rejection of Claims 10 and 18 under 35 U.S.C. §103(a) as being unpatentable over *Ohrn* in view of *Bruno et al.* and further in view of *Stanis et al.*; Applicant respectfully submits that the rejections have been overcome by the amendments to independent Claims 1 and 14. More specifically, none of *Ohrn*, *Bruno et al.* or *Stanis et al.* taken singly or in combination, teach or suggest a method of providing bed availability information comprising the step of inputting the medical condition of a user to find bed availability for the user with the medical condition as taught by Claim 1. Moreover, none of *Ohrn*, *Bruno et al.*, or *Stanis et al.*, taken singly or in combination, teach or suggest a system for storing and accessing bed availability information for a plurality of healthcare facilities wherein the system has a means for inputting information about the patient into a form via the computer network wherein the information about the patient is stored in the database as taught by Claim 14.

With the analysis of the deficiencies of *Ohrn, Bruno et al.* and *Stanis et al.* in mind, no reason or suggestion in the evidence of record exists why one of ordinary skill in the art would have been led to combine *Ohrn, Stanis et al.* and/or *Bruno et al.* in the manner suggested by the Patent Office in formulating the rejections under 35 U.S.C. §103. Therefore, *prima facie* obviousness has not been established by the Patent Office as required under 35 U.S.C. §103.

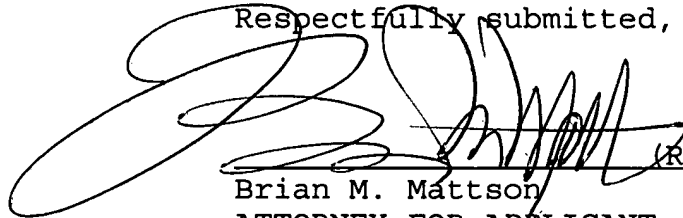
In view of the foregoing remarks, Applicant respectfully submits the rejections of Claims 3, 8-10, 12, 15, 16 and 18 under 35 U.S.C. §103(a) are overcome and should be withdrawn. Notice to that effect is requested.

Claims 2-13 depend from Claim 1; and Claims 15-20 depend from Claim 14. These claims are further believed allowable over the references of record for the same reasons set forth with respect to their parent claims since each sets forth additional steps and elements of Applicant's method and system, respectively, for providing bed availability information on a computer network for a patient to be admitted to a health care facility.

In view of the foregoing remarks and amendments, Applicant respectfully submits that all of the claims in the application are in allowable form and that the application is in condition for allowance. If, however, any outstanding issues remain,

Applicant urges the Patent Office to telephone Applicant's attorney so that the same may be resolved and the application expedited to issue. Applicant requests the Patent Office to indicate all claims as allowable and to pass the application to issue.

Respectfully submitted,



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CERTIFICATE OF MAILING

I hereby certify that this **AMENDMENT** is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to the Assistant Commissioner for Patents, Washington, D. C. 20231 on Jan 10, 2003.



Brian M. Mattson (Reg. No. 35,018)

VERSION WITH MARKS TO SHOW CHANGES MADE

IN THE CLAIMS:

Please amend Claim 1 as follows:

1. A method for providing bed availability information to a user wherein the user identifies an available bed for a patient and further wherein the bed availability information includes information on beds at a plurality of healthcare facilities wherein the plurality of healthcare facilities receives the patient based on the bed availability at one of the plurality of healthcare facilities [on a computer network], the method comprising the steps of:

providing a computer network;

providing a database connected to the computer network;

inputting bed availability information for a plurality of healthcare facilities [having beds] wherein each of the plurality of healthcare facilities have beds and further wherein the bed availability information is input into the database and is accessible by the computer network; [and]

providing a first access to the database for determining [finding] the bed availability information by [a] the user of the database; and

inputting a medical condition of the user to determine the bed availability for the user with the medical condition.

Please amend Claim 14 as follows:

14. A system for storing and accessing bed availability information to a user wherein the bed availability includes information for a plurality of healthcare facilities wherein each of the plurality of healthcare facilities has a plurality of beds and receives a patient if a bed is available, the system comprising:

a computer network;

a database associated with the computer network;

means for inputting bed availability information of a plurality of healthcare facilities into the database; [and]

means for accessing the bed availability information and retrieving the bed availability information from the database via the computer network; and

means for inputting information about the patient into a form via the computer network wherein the information about the patient is stored in the database.